

### **REMARKS**

This responds to the Office Action mailed on November 26, 2007.

No claims are amended, or added; as a result, claims 1-37 remain pending in this application.

#### **§103 Rejection of the Claims**

Claims 1-3, 5-10, 13-15, 18-23, 24-27, 29-34 and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable Flake et al. (US 5,832,451) in view of Schiff et al. (US 2002/0022977).

Claims 4 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable Flake et al. in view of Schiff et al. as applied to claim 1 above, and further in view of Bull et al. (US 5,995,943).

Claims 11 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable Flake et al. in view of Schiff et al. as applied to claim 1 above, and further in view of Iyengar et al. (US 6,360,205).

Claims 12 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable Flake et al. in view of Schiff et al. as applied to claim 1 above, and further in view of Harris et al. (US 2002/0108109).

Claims 16 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable Flake et al. in view of Schiff et al. as applied to claim 1 above, and further in view of Lynch et al. (US 6,119,094).

Each of the rejections above relies on Schiff. A second declaration under 37 CFR §1.131 is submitted with this response which establishes that Applicants invented and reduced the inventive subject matter to practice prior to the June 20, 2001 filing date of Schiff. The second declaration provides factual evidence of both conception and reduction to practice on at least June 28, 1999 as evidenced by the copy of the email forwarded to Applicant's representative and shown in Appendix F and the partition model shown in Appendix G. In view of the second declaration, Applicants respectfully submit that the rejections have been overcome and should be

withdrawn, and that claims 1-37 are allowable. Applicants respectfully request reconsideration and the withdrawal of the rejection of claims 1-37.

### **Reservation of Rights**

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 373-6954

Date May 22, 2008

By

Rodney L. Lacy  
Reg. No. 41,136

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 27 day of May 2008.

CANDIS BUENDING

Name

Candis Buending  
Signature